



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/720,070	09/27/1996	RICHARD G HYATT JR.	P53821C	1185

8439 7590 10/05/2011
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER

BARRETT, SUZANNE LALE DINO

ART UNIT	PAPER NUMBER
----------	--------------

3673

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

10/05/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

rebushnell@aol.com
mail@rebushnell.com
info@rebushnell.com

Office Action Summary	Application No. 08/720,070	Applicant(s) HYATT, RICHARD G	
	Examiner SUZANNE BARRETT	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-56,64-84,90-100,105-116,119-121 is/are pending in the application.
- 5a) Of the above claim(s) 43-45,73 and 94 is/are withdrawn from consideration.
- 6) ☒ Claim(s) 1-42,46-56,64-72,74-84,90-93,95-100,105-114 and 116 is/are allowed.
- 7) ☒ Claim(s) 115 and 119-121 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claim 120 rejected under 35 U.S.C. 135(b)(1) as not being made prior to one year from the date on which U.S. Patent No. 5,839,307 was granted. See *In re McGrew*, 120 F.3d 1236, 1238, 43 USPQ2d 1632, 1635 (Fed. Cir. 1997) where the Court held that 35 U.S.C. 135(b) may be used as a basis for *ex parte* rejections.

Claim 120 was not copied from the Field patent 5,839,307 until 4/13/2001, more than one year after the issue date (11/24/1998) of the Field patent.

Note the following timeline in the instant application:

In the amendment of 8/17/1999, applicant added new claim 60 directed to a "lock cylinder" however, this claim was not a verbatim copy of the Field claim, and in fact, differed substantially. The claim recited a lock cylinder instead of a barrel and recited only one locking member rather than the plurality of locking members set forth in the Field claim. Accordingly, it was patentably distinct from the Field claim and cannot be considered a copied claim.

In the amendment of 10/6/1999, applicant cancelled claim 60.

The amendment of 11/30/1999 was not entered.

In the amendment of 3/16/2000, applicant added new claims 85 and 89 directed to a "lock cylinder". Once again, this differed from the Field claim as discussed above.

In the amendment of 4/24/2000, applicant amended claims 85 and 89 to include in claim 85, "blocking" as in the Field claim, but did not cure the absence of the plurality of locking members set forth in Field; and in claim 89, changed to "alignment", but did not cure the omission of the plurality of locking members.

Art Unit: 3673

In the amendment of 4/13/2001, applicant filed new claim 120, which is a verbatim copy of the Field claim 14.

Thus, applicant failed to copy the claim within one year of the 11/24/1998 issue date.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 115,119,121 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 115 and 119 currently depend from cancelled claims 85 and 89 and are therefore indefinite. In claim 121, line 6, "said cylinder plug detent" lacks antecedent basis.

Allowable Subject Matter

4. Claims 1-42,46-56,64-72,74-84,90-93,95-100,105-114,116 are allowed.

5. Claims 115,119,121 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUZANNE BARRETT whose telephone number is (571)272-7053. The examiner can normally be reached on M-Th 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Suzanne Dino Barrett
Primary Examiner
Art Unit 3673

sdb

/Suzanne Dino Barrett/
Primary Examiner, Art Unit 3673